

REPORTER'S RECORD

VOLUME 40 OF 57 VOLUMES

TRIAL COURT CAUSE NO. F09-59380-S

CASE NO. AP-76,458

THE STATE OF TEXAS : IN THE 282ND JUDICIAL
VS. : DISTRICT COURT OF
GARY GREEN : DALLAS COUNTY, TEXAS

INDIVIDUAL VOIR DIRE

On the 11th day of October, 2010, the following
proceedings came on to be heard in the above-entitled and
numbered cause before the Honorable Quay Parker, sitting for
the Honorable Andy Chatham, Judge Presiding, held in Dallas,
Dallas County, Texas:

Proceedings reported by machine shorthand computer
assisted transcription.

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1 P R O C E E D I N G S

2 (Venirepersons brought forward.)

3 THE COURT: Come on in, gentlemen. Thank you.
4 Have a seat there a few minutes, if you would. Go ahead and be
5 seated. Thank you, please.

6 Good morning, ladies and gentlemen of the jury
7 panel. How are you all this morning? I'm sorry we're getting
8 started a little late. I know you've been here since 8:30 or
9 thereabouts, so we've been -- we've been working in here to
10 kind of try and work, grinding slowly down to the end of our --
11 of our quest here.

12 I'm Judge Quay Parker. I'm a Senior District
13 Judge from McKinney. Several months ago, Judge Andy Chatham,
14 who is the presiding Judge over this case, asked me if I would
15 assist him in the trial of a capital murder case, this case, by
16 presiding over the jury selection process. We call it the
17 individual voir dire. So that explains to you what I'm doing
18 here today instead of Judge Chatham, who you've already met at
19 the general voir dire session. Judge Chatham incidentally is
20 right across the hall in his courtroom taking care of the
21 everyday matters of the court while I'm in the process of
22 picking this jury. Once we get the jury selected, it will be
23 turned over to him, and he'll try the case.

24 Now, we have the case scheduled for October the
25 25th. We anticipate it will take two weeks to try the case.

1 So do any of you know off the top of your head any problems or
2 scheduling problems that you might have with those two weeks?
3 It would be the week of October 25th and then the following
4 week of November the 1st. Does anybody know of any
5 scheduling -- yes, ma'am, and what's your name, please?

6 VENIREPERSON: Lisa Hogan.

7 THE COURT: Okay. Ms. Hogan.

8 VENIREPERSON: I have two very important
9 business meetings the week of the 25th, but the next week I'm
10 available.

11 THE COURT: Okay. Are these business meetings
12 that perhaps you could postpone or to reschedule or do them
13 prior to the 25th?

14 VENIREPERSON: Unfortunately, I can't. They're
15 with prospective clients, and they are in two different cities,
16 Cincinnati and Phoenix.

17 THE COURT: Okay. Well, they may want to talk
18 to you about that when it comes your turn.

19 VENIREPERSON: Okay.

20 THE COURT: When it comes your turn --

21 VENIREPERSON: Okay.

22 THE COURT: -- and they may discuss that. Now
23 that you've brought that to the attention of the attorneys,
24 they can talk about that and may be able to resolve that
25 situation for you, all right? But this is something that you

1 couldn't -- you can't reschedule or anything?

2 VENIREPERSON: It's not on my schedule. I'm so
3 sorry. It's on the prospective clients' schedule.

4 THE COURT: All right. Yes, sir.

5 VENIREPERSON: Does that --

6 THE COURT: I'm sorry. What is your name?

7 VENIREPERSON: Randy Hildenbrand.

8 THE COURT: Okay. Thank you, Mr. Hildenbrand.

9 VENIREPERSON: Does that time span cover
10 election day?

11 THE COURT: Yes, it would. Let's see, about --
12 well, when is the first Tuesday? I believe it is.

13 MR. HEALY: Judge, Judge Chatham is going to
14 make accommodations.

15 THE COURT: He's going to make accommodations.
16 Okay, so I guess he's either going to let you out early to go
17 vote or maybe just continue that one day, you know, election
18 day and let everybody go vote and then resume court then the
19 following day. So anyway -- but, yeah, we want you to have an
20 opportunity to do that.

21 Anything else concerning the schedule? Okay.
22 Well, that explains to you what I'm doing here today instead of
23 Judge Chatham.

24 Now, the reason you're here today is because in
25 a capital murder case where the State is seeking the death

1 penalty, the law requires that each prospective juror be
2 interviewed individually, so you're here today for your
3 individual interview.

4 Let me tell you where we are. We have 11
5 jurors. We need one more juror, and we need two alternates --
6 two alternate jurors. And so we're right down at the end of
7 our jury selection process. I believe we're beginning our
8 eighth week; is that correct? Eighth week of jury selection,
9 and so we're right down at the end. We've been at this seven
10 whole weeks, and this is the beginning of our eighth week. And
11 we anticipate we'll finish either today, tomorrow, or
12 Wednesday. We've got people scheduled for the next three days.
13 Of course, we don't know, you know, when we're going to find
14 our last juror and we don't know, you know, how long it's going
15 to take. We anticipate being finished by Wednesday.

16 So that's what you're doing down here today is
17 for your individual voir dire.

18 Now, let me take you back in time, a few weeks
19 ago, you met in -- I believe everybody met in the courtroom
20 with Judge Chatham, is that right, over here? We've had about
21 five or six different panels come in on this capital case, and
22 Judge Chatham has addressed each one of those groups. Two
23 things happened that day that I want to recall your attention
24 to. And one of them is that at some point in the proceedings,
25 Judge Chatham had every panel member stand up, raise their

1 right hand, and he administered the oath of a prospective juror
2 to each panel member. Do all of you recall that happening?
3 Everybody is nodding their head yes. The reason I'm repeating
4 this is because my court reporter is writing everything down
5 that I'm saying to you and everything you say to me. That's
6 why I get you to identify yourselves when you're talking to me
7 for purposes of our record.

8 Okay. Now, let me ask you. Did every one of
9 you -- did all five of you stand and take the oath at that
10 time?

11 VENIREPERSONS: (Collectively) Yes.

12 THE COURT: Okay. Very good. I'll just remind
13 you that you're still under that oath. And what you've been
14 sworn to do are basically two things: First and foremost and
15 most important is you're sworn to give us truthful answers, to
16 tell the truth. And we know you'd do that anyway.

17 Secondly, you are also sworn to be responsive to
18 each and every question, and that means you can't pick and
19 choose what questions you want to answer. You have to answer
20 all the questions that either I ask to you or that the
21 attorneys ask to you.

22 Now, let me tell you. There's no right or wrong
23 answers about any of their questions. What's going to happen
24 here this morning is we figure everybody that comes in on this
25 jury as a prospective juror probably doesn't know anything

1 about the law as it applies to capital murder cases here in
2 Texas. And I bet all five of you fit into that group; is that
3 correct?

4 VENIREPERSON: Yes.

5 THE COURT: Yes, okay. Good. That's the way we
6 like you, as a matter of fact. Because we don't want you
7 coming in with any preconceived ideas about the law. And so a
8 good part of our time with you this morning -- with each one of
9 you this morning will be with the attorneys explaining certain
10 aspects and principles of the law as it applies to capital
11 murder cases. And in those -- in their explanation, they may
12 give you a fact situation, a fact scenario, a hypothetical fact
13 situation, if you will. I don't want you to confuse those
14 facts with the facts in this case, because they're not. They
15 can't tell you anything about the facts in this case.

16 The reason for that is because if you wind up on
17 this jury as either a juror or an alternate, then we don't want
18 you being seated in this jury box with any preconceived ideas
19 about the facts in this case, or the outcome of the case. In
20 other words, what your verdict would be before you've ever
21 heard any of the evidence in the case. You understand? So
22 that's why we like you not knowing anything about the law
23 because that's going to be Judge Chatham's responsibility to
24 give you the law at the conclusion of the evidence which he
25 will.

1 And secondly, we don't want you knowing anything
2 about the facts in this case until you hear them during the
3 trial at the presentation of the evidence, okay? So you're not
4 going to find out anything much about the case. A little bit
5 about the law as it applies to capital murder cases. Not
6 anything about the facts. That's just the way it is, all
7 right? So that's why I'm telling you once you -- once the
8 attorneys feel like you understand the law, the principles of
9 the law, then they're going to ask you questions to get your
10 thoughts, your ideas, your opinions about it.

11 What we're trying to find out is how you feel in
12 your heart of hearts about the law. Can -- do you agree with
13 the law? Can you follow the law? Can you even participate in
14 a trial of this magnitude? That's what you need to tell us.
15 Because we don't want to seat you on this jury and then later
16 on Judge Chatham will give you the oath of a prospective juror
17 -- I mean, excuse me, will give you the oath of a juror, and at
18 that time you will be sworn to follow the law. And that's the
19 whole point of this little exercise here with you today is to
20 find out ahead of time whether or not you can follow the law
21 and apply the evidence to the law and participate in a trial of
22 this magnitude, okay?

23 Because you all know what's at stake here. We
24 all do. And it will be -- become even more obvious to you
25 during your individual interview, but I'm telling you that

1 there's no right or wrong answers. This is not a quiz that you
2 either pass and you're on the jury; if you don't pass, you're
3 not. It's nothing like that at all. It's not an exam. It's
4 not a quiz. It's not how well you understand the law. It's
5 more about we want you to understand certain aspects of the
6 law, but mainly we want to find out if you can follow it and if
7 you can participate in this trial, okay?

8 So that's what we need to know, and that's kind
9 of the direction that the attorneys' questions are going to
10 take.

11 Now, the second thing that you did that day with
12 Judge Chatham besides taking the oath, you filled out a
13 questionnaire. And I know none of you have seen the
14 questionnaire since you've turned it in that day. And I
15 realize that you probably don't remember many, if any, of the
16 responses and answers that you wrote down that day. Certainly
17 you don't remember the details of it. Each one of the
18 attorneys has a copy of that questionnaire. They've read it.
19 They're going to have questions for you about some of your
20 answers and responses in regard to the law. And so we -- we
21 give you that questionnaire -- well, we know you don't know
22 anything about the law -- to kind of get a gut check, as some
23 of the attorneys might call it, about how you feel about it,
24 really not knowing anything about the law. And then once they
25 explain it to you, then your mind may change, your attitude may

1 change about it or it may not. But at least you'll know more
2 about what you're -- what you're talking about than you did the
3 day that you filled out your questionnaire. And since you -- I
4 know you don't remember that, and I'll have a copy of your
5 questionnaire for you here on the witness stand. This is where
6 you'll be talking from right here because it's got a
7 microphone. You can see everybody. It's just -- makes it a
8 little more convenient for everybody.

9 All right. Now, I think I've talked enough, and
10 let's go ahead and let me introduce the attorneys to you and
11 then we'll get started with our individual voir dire. And, of
12 course, the reason we have all of you come in at 8:30 is
13 because we don't know exactly who we're going to take. We've
14 already excused, I think, one member of the group this morning.
15 We have the same number coming in this afternoon, for the next
16 three days. And so we're really putting a rush on this trying
17 to get this thing finished up.

18 Seated at the counsel table directly in front of
19 the jury box here where you're seated is the prosecution table,
20 and seated there is Ms. Jennifer Bennett.

21 MS. BENNETT: Good morning.

22 THE COURT: And also Mr. Josh Healy.

23 MR. HEALY: Good morning, ladies and gentlemen.

24 THE COURT: They -- these two ladies and

25 gentlemen are the Assistant District Attorneys, and they are

1 two members of a four-member prosecution team. Mr. Heath
2 Harris and Mr. Andy Beach are the other two members of the
3 prosecution team, and neither one of them are in the courtroom
4 with us today, but they come and go and so -- some of you may
5 see one or the other of them in addition to -- and usually
6 they're seated either at the back of the courtroom or right
7 here at the counsel table with Mr. Healy and Ms. Bennett.

8 Then at the counsel table directly in front of
9 the bench here and across from me, Mr. Paul Johnson --

10 MR. JOHNSON: Good morning.

11 THE COURT: -- lead counsel for the Defense.

12 Seated next to him, Mr. Kobby Warren.

13 MR. WARREN: Good morning.

14 THE COURT: And also behind him, Mr. Brady
15 Wyatt.

16 MR. WYATT: Good morning.

17 THE COURT: These three fine attorneys are the
18 Defense team, and they represent the Defendant in this case,
19 Mr. Gary Green --

20 THE DEFENDANT: Good morning.

21 THE COURT: -- who's the gentleman seated on the
22 end.

23 All right. Who are you going to have first?

24 MR. HEALY: Ms. Coleman is the lucky number one.

25 THE COURT: Ms. Coleman. All right. Ms.

1 Coleman, if you'll take the seat at the -- at the witness stand
2 there.

3 And, ladies and gentlemen, if you'll accompany
4 my bailiff, he'll take you back out here in the hall where
5 we'll try to make you as comfortable as possible. If you need
6 water or restroom facilities, he'll show you where those are or
7 tell you where those are.

8 (Venirepersons excused from courtroom.)

9 THE COURT: Thank you, ladies and gentlemen. Be
10 seated, please.

11 And, Darline, let the record reflect this is
12 Prospective Juror Number 2C, Sonya, S-o-n-y-a, Coleman,
13 C-o-l-e-m-a-n.

14 All right. Mr. Healy.

15 MR. HEALY: Thank you, Judge.

16 THE COURT: Yes.

17 MR. HEALY: Please the Court.

18 Counsel.

19 SONYA COLEMAN,
20 was called as a venireperson by the parties, and after having
21 been previously duly sworn, testified as follows:

22 STATE VOIR DIRE EXAMINATION

23 BY MR. HEALY:

24 Q. Ms. Coleman, how are you doing this morning?

25 A. I'm good. How are you?

1 Q. Good. Excited to be here, right?

2 A. Oh, yeah.

3 Q. Sorry my voice is a little bad. Last about two
4 weeks I've been struggling here, and then I was out of town
5 this weekend which hasn't helped. But if you can't understand
6 anything I'm saying, please try to have me repeat it. This is
7 a pretty important process. I think you'd agree with that.

8 A. Yes.

9 Q. The way it's going to work is I'm going to talk with
10 you for up to 40, 45 minutes, if it goes that far, then Defense
11 will talk to you up to 40, 45 minutes. What I mean by if it
12 goes that far is as the Judge said, we are looking for one more
13 juror and a couple of juror alternates and we'll be done.
14 We're starting testimony in two weeks, all right? And both
15 sides think that you're a potential person that could sit on a
16 case like this, and so that's why we wanted to get you down
17 here to speak with you.

18 How does that make you feel knowing that you're
19 pretty close to being on a death penalty trial like this?

20 A. A little pressure, but I think I can handle it.

21 Q. And that was one thing I wanted to talk to you
22 about. Right now, as the Judge said, you've taken an oath to
23 tell the truth. I don't want you to try and answer a question
24 the way you think I want to hear it or the way I think Mr.
25 Johnson wants you to hear it. This is your time to shine.

1 We're just looking for honest answers from you.

2 A. Okay.

3 Q. You're not going to offend any side no matter what.

4 And what I mean by that is if you tell just me, Mr. Healy, I
5 think everybody who commits a murder should get the death
6 penalty, I'll thank you for your honesty. If you say, Mr.
7 Healy, I think nobody deserves the death penalty for committing
8 murder. I'd say thank you for your honesty. So I really want
9 to stress that -- how important that is for this process to
10 succeed.

11 A. Okay.

12 Q. Fair enough?

13 A. Yes.

14 Q. All right. Well, Ms. Coleman, tell me about your
15 feelings on the death penalty. I know you filled out this
16 questionnaire a while ago, but I want to hear you talk a little
17 bit.

18 A. I believe in the death -- well, that's hard to
19 say -- I'm for the death penalty when it comes to -- as long as
20 it's -- the person accused is found guilty beyond a reasonable
21 doubt, as far as eyewitness testimony, DNA, if it's available,
22 and crimes against a child.

23 Q. Okay. And you said --

24 THE COURT: Can you all hear Ms. Coleman?

25 VENIREPERSON: Do I need to adjust it?

1 THE COURT: Could you speak up just a little
2 bit?

3 THE WITNESS: All right. I'm sorry. Yes, yes.

4 THE COURT: That's all right. And that is a
5 microphone. It should be on, but I was just having a little
6 difficulty hearing you.

7 VENIREPERSON: Okay. I'll speak up. I'll speak
8 up.

9 MR. HEALY: Do you want me to tell you why,
10 Judge, really?

11 THE COURT: Why? Because I'm deaf, and I'm old?

12 Q. (BY MR. HEALY) We've been doing this awhile, as you
13 can see, Ms. Coleman. We've been in here -- so you were about
14 to say I believe in the death penalty, and then you kind of
15 stopped yourself. Tell me about that.

16 A. Right, because it's not something that you can
17 believe in. You're either for or against it. I don't believe
18 in, you know, I have the right to choose death for someone, but
19 I can't really explain it very well. I'm for the death
20 penalty, but when the circumstances warrant it.

21 Q. Okay. And your circumstances include where the
22 proof is there or whether it's a child, you said?

23 A. Well, all three have to -- well, not all three have
24 to be met. At least the eyewitness testimony and DNA and, you
25 know, especially if it's a crime against a child.

1 Q. What about -- you know, sometimes in some cases you
2 don't hear about DNA, you just -- the Defendant gives a full
3 confession to the case, you know, something that would make you
4 feel comfortable?

5 A. Yeah, that's -- that's -- you know, that's -- as
6 long as it's able -- it's proven to me and the other jurors and
7 beyond a reasonable doubt.

8 Q. Okay.

9 A. That there is no -- no reason to doubt that.

10 Q. And why -- why did you say child --

11 A. I think crimes against children -- well, murder --
12 murdering a child is especially heinous.

13 Q. And I saw that you followed that case that happened
14 a couple of months ago when the couple locked the family or the
15 kids in the hotel bathroom?

16 A. Yeah.

17 Q. You know, you're the first person in all these
18 questionnaires who actually wrote about that. We bring that up
19 a lot to potential jurors to see on a different issue, and
20 we'll get to that later. But why did that case stand out to
21 you so much?

22 A. It wasn't -- none of the children died.

23 Q. No.

24 A. The -- it was a crime, a very serious crime that --

25 Q. They both got -- one got 99 years, one got life in

1 prison.

2 A. Right, right. When it's something like that, when
3 it's taking someone -- a child's innocence, their life, even
4 though they have survived, it's just going to be hard for them
5 to get over.

6 Q. Okay. Ms. Coleman, tell me -- you put on your
7 questionnaire -- do you feel the death penalty in Texas is used
8 too often or too seldom. You said too seldom. In some cases
9 it is not used -- and I can't read your writing. I apologize.

10 A. That's okay. I've heard that before.

11 Q. It's on page 3 in the middle. What does that say?

12 A. Oh, too seldom in some cases. It is not used due to
13 extradition rules or plea bargains.

14 Q. What did you mean by that?

15 A. There was a case a few years back, a man killed a
16 young woman and he -- he ran away to Mexico, but the only way
17 to get him back was to agree.

18 Q. That was in my court. The North Texas woman?

19 A. Yeah, the college student.

20 Q. Yes. Okay. So you followed that one, as well?

21 A. Yeah.

22 Q. See, that would -- as you said, that's one of the
23 issues we're going to hit in a second, if he would have been
24 caught before he went Mexico, that in all likelihood would have
25 been a death penalty trial.

1 A. Right, right. That's what I mean by too seldom when
2 there's a plea arrangement.

3 Q. And then you said what's the most important thing in
4 deciding life or death on a death penalty case. You said the
5 nature of the crime.

6 A. Right.

7 Q. You're just talking about the facts of the crime, or
8 how -- explain that a little bit.

9 A. And I probably didn't read the last portion of a
10 capital murder case. What I was thinking was for more of an
11 accidental killing.

12 Q. Okay.

13 A. Self-defense.

14 Q. We wouldn't be here for an accidental killing.

15 A. Right, right. So that's what I meant by that. I
16 didn't really read the last portion of the question.

17 Q. Let me ask it to you then now, how you're
18 understanding it. When you're thinking of a death penalty case
19 and you're thinking the State has proved it to you beyond a
20 reasonable doubt that man is, in fact, the person who did it,
21 and you have no doubt whatsoever, what would be most important
22 to you before we get to the law in deciding life or death?
23 What do you think is the most important thing?

24 A. If the person would possibly re-offend.

25 Q. Possibly re-offend?

1 A. Yes.

2 Q. Okay.

3 A. If he could be rehabilitated.

4 Q. Do you think somebody who commits a cold-blooded
5 capital murder -- and maybe this is a good time for me to
6 explain what capital murder is. You read in your orientation
7 guide that it's murder of two or more individuals. That's one
8 of the ways it could be capital murder. Capital murder is also
9 murder of a child under the age of six.

10 A. Right.

11 Q. Murder of a policeman or fireman in the line of
12 duty. Murder in the course of robbery, burglary. And you kind
13 of nailed most of these in your answers to what crimes. Murder
14 in the course of aggravated sexual assault. That was that
15 North Texas one.

16 A. Yeah.

17 Q. Murder of a prison guard. And so that's what
18 capital murder is. Capital murder is the intentional taking of
19 those lives, so we're not talking about an accidental death.

20 A. Accidental, okay.

21 Q. We're not talking about in self-defense. We're
22 talking about a cold-blooded intentional killing with some type
23 of aggravating circumstance. And what I mean by that, it's
24 kind of like I always use the example of Ms. Bennett here.
25 During the eighth week now of jury selection, I'm just getting

1 tired of her. Obviously, you can look at her, most people get
2 tired of her all the time, you know. And I pull out my gun and
3 I shoot her in the head for no reason whatsoever. I like it.
4 I get on that witness stand and say I'd do it again, okay? I
5 wouldn't be eligible for the death penalty in the state of
6 Texas, because I didn't do one of those aggravating factors, as
7 well.

8 A. Right. You just --

9 Q. Now, if I did that and stole her water bottle, even
10 though that water bottle probably cost \$5, all right, then it
11 would be murder in the course of robbery. Then I would be
12 eligible for a death sentence.

13 A. Okay.

14 Q. So when I ask you what's important in deciding life
15 or death, I want you to realize, you're talking about the worst
16 of the worst when you have found somebody guilty of a capital
17 murder. You're talking about the intentional taking of another
18 person's life, whether it be a child under the age of six , two
19 or more individuals, a police officer, a fireman, and so on.
20 You're talking about the person was not insane. You're talking
21 about it was not in self-defense, okay?

22 So you talked about would the person be able to
23 re-offend or -- I'm going to ask you, do you think those types
24 of people can re-offend or rehabilitate -- excuse me.

25 A. No. No, because if you kill someone, that -- that

1 takes thought, that takes effort. You can't -- if you already
2 have that in your -- in you to do, you could possibly do it
3 again.

4 Q. Okay. Now, we get pretty personal in these
5 questionnaires. We apologize. It kind of -- the only way this
6 works, as I said earlier, is the honesty of both parties, us
7 and you, and I'm going to lay out our position here in a
8 second, but you put something in your questionnaire that I
9 wanted to talk to you about, if it's okay.

10 You talk about that you're in counseling for
11 emotional trauma?

12 A. Yes.

13 Q. Can you tell me about that a little bit?

14 A. Sexual abuse.

15 Q. Okay. And I'm going to try and do this in the most
16 couth way possible.

17 A. Okay.

18 Q. Was it a relative?

19 A. Yes.

20 Q. Boyfriend?

21 A. A father -- my father.

22 Q. Okay.

23 MR. HEALY: Judge, may I have a second?

24 THE COURT: Yes, sir.

25 MR. HEALY: Judge, can we have a brief recess?

1 THE COURT: Yes, sir.

2 All right. Ms. Coleman, if you'd step out with
3 my bailiff for just a second, let me confer with the attorneys
4 and I'll bring you back in just a minute, all right? Watch
5 your step there, please, ma'am. Yeah, go ahead and get your
6 purse.

7 (Venireperson excused to hallway.)

8 MR. HEALY: Can we just have a second, Judge?

9 THE COURT: Yeah.

10 (Discussion off the record.)

11 THE COURT: Let's get on the record here. Let's
12 kind of clean a few things up here. With regard to this
13 morning, Prospective Juror Number 6 -- James Ng, who is
14 Prospective Juror Number 4A, James Ng, was excused by agreement
15 of parties; is that correct?

16 MR. HEALY: Correct, Your Honor.

17 THE COURT: And --

18 MR. WARREN: This is correct, Your Honor.

19 THE COURT: Okay. Thank you. Then Mr. James Ng
20 will be excused.

21 (Venireperson 4A, James Ng, excused by
22 agreement, no discussion.)

23 THE COURT: And then this afternoon, Number 15C,
24 John Carpenter, has also been excused by agreement of the
25 parties; is that correct?

1 MR. HEALY: That's correct, Your Honor.

2 MR. WARREN: Yes, Your Honor.

3 (Venireperson 15C, John Carpenter, excused by
4 agreement, no discussion.)

5 THE COURT: Okay. And then also this afternoon,
6 Prospective Juror Number 31A, Andrew Acord, excused by
7 agreement?

8 MR. HEALY: That's correct, Your Honor.

9 THE COURT: And excused by agreement?

10 MR. WARREN: That is, Your Honor.

11 (Venireperson 31C, Andrew Acord, excused by
12 agreement, no discussion.)

13 THE COURT: All right. Very good. Thank you.
14 And also, Ms. Sonya Coleman is now excused by
15 agreement; is that correct?

16 MR. HEALY: I'm going to let Mr. Johnson put Ms.
17 Coleman on the record.

18 THE COURT: Okay. Go ahead.

19 MR. JOHNSON: Yes, sir, Judge, she -- after
20 speaking with the client, he does not wish to go any further
21 with her and we're going to agree with the State to excuse.

22 THE COURT: Okay. So Sonya Coleman is excused?

23 MR. HEALY: Correct, Judge.

24 (Agreement to excuse venireperson.)

25 THE COURT: All right. Very good. Bring Ms.

1 Coleman back.

2 (Venireperson brought forward.)

3 THE COURT: Ms. Coleman, just go ahead and have
4 a seat there, if you would, please.

5 Thank you, ladies and gentlemen.

6 I just wanted to bring you back and thank you
7 personally for being here today. I'm going to release you from
8 any further responsibility in this case. But thank you so much
9 for your jury service and thank you so much for the time and
10 effort you've made to be with us today.

11 VENIREPERSON: Okay.

12 THE COURT: Have a good day.

13 VENIREPERSON: Thank you.

14 THE COURT: Thank you.

15 (Venireperson excused from courtroom.)

16 MS. BENNETT: All right. We're going to bring
17 in Mr. Hildenbrand.

18 THE BAILIFF: Mr. Hildenbrand.

19 THE COURT: Yes, sir.

20 (Venireperson brought forward.)

21 THE COURT: Come in, Mr. Hildenbrand, if you
22 would, please, sir. Just right down here to the witness stand
23 would be fine. Thank you, sir. Just go ahead and have a seat
24 there.

25 Thank you, ladies and gentlemen. Be seated,

1 please.

2 Mr. Hildenbrand, let me just remind you when you
3 step down, watch your step because it's kind of tricky there.
4 We've lost some jurors off that deal. There's your
5 questionnaire that I told you would be there for you.

6 And, Darline, I'd like for the record to reflect
7 this is Prospective Juror Number 10C, Randall, R-a-n-d-a-l-l,
8 Hildenbrand, H-i-l-d-e -- Hildenbrand, correct?

9 VENIREPERSON: Yes.

10 THE COURT: I don't think I was putting an N in
11 it. H-i-l-d-e-n-b-r-a-n-d.

12 Okay. Let's see, Mr. Healy.

13 MR. HEALY: Thank you, Judge. Please the Court.

14 THE COURT: Mr. Healy.

15 MR. HEALY: Counsel.

16 RANDALL HILDENBRAND,
17 was called as a venireperson by the parties, and after having
18 been previously duly sworn, testified as follows:

19 STATE VOIR DIRE EXAMINATION

20 BY MR. HARRIS:

21 Q. Mr. Hildenbrand, how are you doing?

22 A. Pretty good.

23 Q. Didn't take too long to get to you, did it?

24 A. No, no, not long at all I guess, what, three weeks?

25 Q. Well, I'm talking about this morning.

1 A. Oh --

2 Q. Because we only talked to Ms. Coleman for about ten
3 minutes. The way -- the reason that is, is we have up to about
4 45 minutes to talk to each side, but we're asking for your
5 honest answers on certain questions. As the Judge said, we're
6 looking for one more juror. And sometimes people have past
7 experiences with certain things that may not make them the best
8 fit for this jury. And we're just looking for honesty, and
9 that's kind of what happened with Ms. Coleman. She had
10 something that happened in her past where this probably wasn't
11 going to be the best case for her. So both sides agreed on
12 that. So that's what we're looking for, your honest beliefs
13 and your honest answers to both sides' questions, and I think
14 we'll all be okay. Fair enough?

15 A. Yes.

16 Q. All right. Anything changed in your questionnaire
17 since you last filled it out?

18 A. I can't think of any. I mean, I'd have to read
19 through the whole thing again, but --

20 Q. Well, we don't want to do that, so we'll kind of
21 go -- let me ask you, Mr. Hildenbrand -- I'm sorry for my
22 voice. I'm a little under the weather, but tell me about your
23 feelings on the death penalty. I want your personal gut
24 feelings on it.

25 A. Well, honestly, if you -- if the death penalty was

1 abolished, I wouldn't have a problem with it, but I think of it
2 as kind of -- the way the laws are now, it's kind of like
3 raising kids. If you -- you know, if you tell your children
4 you're going to punish them in a certain way for a certain
5 action and you don't follow through, that's not right either,
6 so --

7 Q. So you're more of -- well, I don't want to put
8 words -- let me just ask you this. Do you believe in the death
9 penalty, or are you more of a believer just it's on the law,
10 it's on the books, so I can do it if I'm called for it. Like
11 what do you, Mr. Hildenbrand believe?

12 A. I honestly haven't thought about it that much, but I
13 guess I would lean -- at this time in my life, I would say yes.

14 Q. You are for it?

15 A. Yes.

16 Q. All right. Can you tell me the types of crimes
17 you're for it, when you think it should be used?

18 A. And, there again, I honestly haven't thought about
19 it that much -- I haven't had the opportunity to even think
20 about it that much, but I would say it was a crime that was,
21 you know, particularly horrific or a crime where it just -- you
22 know, there was no way of stopping the person from ever, you
23 know, repeating that kind of action.

24 Q. Well, have you heard anything in the news where you
25 said this person should have gotten a death sentence or maybe

1 this person got a death sentence and should not have gotten a
2 death sentence?

3 A. Not really.

4 Q. Okay. Can you think of an actual specific set of
5 facts where you think the death penalty should be a viable
6 punishment option, besides just saying heinous crime? I'm
7 assuming you're talking about murders?

8 A. Yes. A set of -- let me -- repeat that.

9 Q. Sure. When you're thinking about the death penalty,
10 you said should be a heinous crime, something horrible. Can
11 you think of a certain specific set of circumstances when you
12 say, yeah, that should be a death penalty case, like a killing
13 of certain type of individual or killing -- you know, anything
14 like that? We're just trying to get your gut feeling to see
15 where you stand on certain issues.

16 A. Well, I never saw the movie, but I heard about it,
17 like the Texas Chain Saw Massacre. You know, that would -- I
18 think that would fit.

19 Q. Okay.

20 MR. HEALY: Judge, can we have a brief recess?

21 THE COURT: Yes, sir.

22 Okay. Mr. Hildenbrand, if you would accompany
23 my bailiff out, if you'll -- he'll talk to you.

24 (Venireperson excused from courtroom.)

25 THE COURT: Good morning, Andy.

1 MR. BEACH: Hello.

2 (Discussion off the record.)

3 THE COURT: Okay. Do we have an agreement on
4 Mr. Hildenbrand?

5 MR. HEALY: Yes, Your Honor.

6 THE COURT: Okay. Let the record reflect that
7 Randall Hildenbrand, Prospective Juror Number 10C, is excused
8 by agreement of parties; is that correct, Ms. Bennett?

9 MS. BENNETT: Yes.

10 THE COURT: And Mr. Johnson?

11 MR. JOHNSON: That's correct, Judge.

12 (Agreement to excuse venireperson.)

13 THE COURT: Okay. You want to put anything else
14 on the record?

15 MS. BENNETT: Well, hey, Paul, should we let the
16 lady go who has the out of --

17 (Discussion off the record.)

18 MS. BENNETT: Okay. Let's go ahead and put it
19 on the record then that because of --

20 THE COURT: Prospective Juror Number 1A, Lisa
21 Hogan --

22 MS. BENNETT: That's correct.

23 THE COURT: -- is excused because of her prior
24 commitment and -- business commitment, I believe she said.

25 MS. BENNETT: That's --

1 THE COURT: Is that correct, Ms. Bennett?

2 MS. BENNETT: That's correct.

3 THE COURT: And Mr. Johnson?

4 MR. JOHNSON: Yes, sir.

5 THE COURT: Is that correct?

6 MR. WARREN: It is, Your Honor.

7 (Venireperson 1A, Lisa Hogan, excused by
8 agreement, no discussion.)

9 THE COURT: All right. So we can let Mr.
10 Hildenbrand go and also -- well, let me bring him in, and I'll
11 thank him.

12 THE BAILIFF: Mr. Hildenbrand, come on back,
13 sir.

14 (Venireperson brought forward.)

15 THE COURT: Mr. Hildenbrand, thank you so much
16 for being here. I just want to bring you back and thank you
17 personally for being here. I'm going to release you from any
18 further responsibility in this case. But we appreciate your
19 jury service and your cooperation in being here today. Thank
20 you very much. You're free to go.

21 MR. HEALY: Judge, can we have about five
22 minutes being we only have two left?

23 THE COURT: And, also, would you allow Ms.
24 Hogan -- because of her prior commitments, we discussed that.
25 If you just tell her from me thank you and we'll excuse her.

1 And we'll be in recess for about five minutes, okay?

2 (Recess.)

3 (Venireperson brought into courtroom.)

4 THE COURT: Come in, Mr. Jensen, if you would,
5 sir, up here to the witness stand.

6 Thank you, ladies and gentlemen. You may be
7 seated.

8 Darline, I'd like for the record to reflect this
9 is Prospective Juror Number 67B, Shane Jensen, S-h-a-n-e,
10 Jensen, J-e-n-s-e-n.

11 Ms. Bennett.

12 SHANE JENSEN,
13 was called as a venireperson by the parties, and after having
14 been previously duly sworn, testified as follows:

15 STATE VOIR DIRE EXAMINATION

16 BY MS. BENNETT:

17 Q. Good morning, Mr. Jensen. How are you doing?

18 A. Doing well. Thank you.

19 Q. Good. My name is Jennifer Bennett, and I'm going to
20 be talking with you on behalf of the State --

21 A. Uh-huh.

22 Q. -- this morning. Let me first of all thank you for
23 waiting on us.

24 A. Uh-huh.

25 Q. And let you know what we're going to do is we're

1 going to talk for a little while about how you feel about the
2 death penalty, okay?

3 A. Okay.

4 Q. And I'll tell you that there are no right or wrong
5 answers. You know, as the Judge said, we've been doing this
6 for eight weeks now, so this isn't about getting something
7 right or wrong. This is about both sides kind of hearing how
8 you feel about the death penalty and some other things maybe
9 that were contained in your questionnaire and basically
10 deciding if both sides feel like you would be the best fit for
11 this case, all right? So it has nothing to do with, you know,
12 right or wrong answers and whether you know the law or not, all
13 right?

14 A. Uh-huh.

15 Q. Now, I notice that you have a degree in criminal
16 justice you said.

17 A. Uh-huh.

18 Q. And I found one of your answers in the questionnaire
19 really interesting. But first of all, let's talk about why
20 you're in favor of the death penalty. Can you just tell us
21 kind of in your own words?

22 A. Well, if you look through history and the events of
23 society, they've had it. If you go all the way back to
24 Hamuarabi's Code and going all the way through --

25 Q. What code?

1 A. Hamuarabi's Code -- up through today --

2 Q. Do you know how to spell Hamuarabi by any chance?

3 A. I belive it's H-a-m-u-a-r-a-b-i.

4 Q. Okay. And so go ahead.

5 A. All the way through. I teach history, so I -- if
6 you look at, you know, any society that has been successful,
7 they usually had that so -- and especially through most
8 advanced -- you know, any type of advanced criminal justice
9 system has had it.

10 Q. Okay. Why do you -- do you personally feel like
11 it's a good thing to have?

12 A. Uh-huh.

13 Q. Why is that?

14 A. On one hand it does serve as a deterrent, and it
15 does serve as a deterrent for some. You know, obviously, other
16 people -- you know, in certain situations, you know, people
17 lose sight of consequences and interactions.

18 Q. All right. And you teach history and coach; is that
19 right?

20 A. Yes, ma'am.

21 Q. Where do you -- where do you teach at?

22 A. I teach at A.C. New Middle School for Mesquite ISD.

23 Q. Okay. And do you teach about criminal justice
24 issues as far as --

25 A. Not really, no, ma'am. I teach primarily Texas

1 history.

2 Q. Do you know anything about the facts of this case?

3 A. Not really.

4 Q. Not really?

5 A. Not other than what was said, just that he was
6 accused of capital murder -- and the Defendant was accused.

7 Q. Okay. So you had never read or --

8 A. No.

9 Q. -- seen anything in the paper or anything like that?

10 A. No.

11 Q. Okay. I was curious on your answer in the
12 questionnaire about -- on page 8, the group of ten people
13 charged with murder.

14 A. Uh-huh.

15 Q. You were talking about double jeopardy and crossing
16 state lines and all that. I was just --

17 A. Yeah, because in one of my justice courses, it says
18 that if the person is charged -- you can't -- you can't convict
19 an innocent person with a group of ten. That just doesn't --
20 doesn't work. However, because if you did that and all of a
21 sudden, of course, the case would be overturned on appeal, but
22 if you cross state lines then now you have -- now it would be
23 bumped up to a federal offense, so you get -- if the State
24 loses jurisdiction on that, the federal -- the government would
25 be able to step in and do prosecution, as well.

1 Q. To find -- you mean the one --

2 A. Yeah, yeah. They would be able to omit the one, but
3 prosecute the nine.

4 Q. But for you it would be important that -- obviously,
5 that an innocent person not be convicted?

6 A. Correct.

7 Q. Now, tell me what kind of crimes you feel like the
8 death penalty would be appropriate for, just kind of
9 personally, if just -- if you know about the law -- or do you
10 know what the law is on that?

11 A. Uh-huh.

12 Q. Okay.

13 A. Yep.

14 Q. Because you're in a little bit of position than most
15 people that walk in here that don't know it.

16 A. Uh-huh.

17 Q. So I guess if you want to go by that, that's fine.

18 A. Well, according to the Penal Code, it says it's
19 anybody -- like if you have officers -- you know, basically or
20 officer or fireman, you know, performing their duty, that would
21 be one. If it's in commission of another offense, so, for
22 example, if somebody was robbing and, you know, in the process
23 of committing that crime, they killed somebody else or tried to
24 get away with whatever else, there, in essence, would be -- it
25 would be basically a capital offense according to Penal Code.

1 Q. Sure. And also murder of a child under the age of
2 six.

3 A. Correct.

4 Q. Murder for hire.

5 A. Yes.

6 Q. Murder of more than one person during the same
7 criminal transaction.

8 A. Correct.

9 Q. So -- but kind of -- understanding that's what the
10 law is, what's your gut feeling about the kinds of cases that
11 should be appropriate for the death penalty?

12 A. I believe those -- those pretty much are self
13 explanatory. I completely agree with those.

14 Q. Okay. How do you feel specifically about children
15 victims -- child victims?

16 A. Being that I have two young children, I think I
17 would probably hold that a little bit in the higher -- I mean,
18 that would be -- be a similar circumstance. I mean, I would
19 hold that as --

20 Q. Sure.

21 A. -- in the same regard.

22 Q. And I think -- I think most people would probably
23 agree with you, you know, children are innocent, right?

24 A. Right.

25 Q. And so they're -- when you think of victim, probably

1 there's really no victim like a small child.

2 A. A small child, because they're defenseless and so
3 they are innocent and they don't have --

4 Q. Right. What about -- when did you apply to be a
5 police officer? When was that?

6 A. Oh, well, let's see that would have been -- I
7 graduated in 2000, so from 2000 to about 2003. And at that
8 point I just -- I don't feel that's where God wanted me, so I
9 went ahead and I went home prayed about it and gave it about a
10 year and felt like God was leading me to teach.

11 Q. All right. Perfect. Okay.

12 MS. BENNETT: I think we need to take a break,
13 if we could for just a moment. Thanks.

14 THE COURT: All right. If you'll accompany my
15 bailiff, he'll escort you out for just a few minutes and then
16 I'll bring you back, Mr. Jensen. Thank you. Watch your step
17 there, too.

18 (Venireperson excused from courtroom.)

19 THE COURT: Okay.

20 MS. BENNETT: Judge, I think the State and the
21 Defense have reached an agreement in reference to 67B, Mr.
22 Jensen.

23 THE COURT: To excuse him?

24 MS. BENNETT: That's correct.

25 THE COURT: Okay. Is that correct, Mr. Johnson?

1 MR. HEALY: Yes, Your Honor.

2 MR. JOHNSON: Yes.

3 THE COURT: 67B.

4 (Discussion off the record.)

5 THE COURT: 67B is excused.

6 All right. Bring Mr. Jensen back and let me
7 excuse him.

8 (Agreement to excuse venireperson.)

9 (Venireperson brought forward.)

10 THE COURT: Mr. Jensen, thank you so much for
11 being here with us today. We appreciate your time and effort
12 and your jury service. Thank you very much. You're free to
13 go.

14 MS. BENNETT: Thank you.

15 THE BAILIFF: This way. Do you need a slip for
16 work or anything?

17 VENIREPERSON: No.

18 THE BAILIFF: Okay. Thanks.

19 VENIREPERSON: Oh, actually, yes, I do, please.

20 (Venireperson excused from courtroom.)

21 THE COURT: We're ready for Ms. Rhone.

22 (Venireperson brought forward.)

23 THE COURT: Just go ahead and have a seat there.
24 Thank you, ladies and gentlemen. Be seated,
25 please.

1 And I'd like for the record to reflect this is
2 Prospective Juror Number 33A, Lisa, L-i-s-a, Rhone, R-h-o-n-e.

3 Mr. Healy, are you going to talk to Ms. Rhone?

4 MR. HEALY: Yes, sir. Thank you, Judge. Please
5 the Court.

6 Mr. Johnson.

7 LISA RHONE,
8 was called as a venireperson by the parties, and after having
9 been previously duly sworn, testified as follows:

10 STATE VOIR DIRE EXAMINATION

11 BY MR. HEALY:

12 Q. Ms. Rhone, how are you doing this morning?

13 A. Good.

14 Q. Excited to be here?

15 A. Oh, yes.

16 Q. You were last on the list and you see how quickly we
17 got to you. And I bring that up because this is kind of the
18 process we're -- the only oath you have taken is to tell the
19 truth. There are no right or wrong answers.

20 A. Okay.

21 Q. Your fellow potential jurors had some answers that
22 would not work with this type of case, so both sides agreed to
23 move on to the next juror and that's kind of how we keep going
24 forward. As the Judge said, we've been doing this eight weeks,
25 and we have 11 jurors. We're looking for three more.

1 A. Okay.

2 Q. So it's obviously a lengthy process, and both sides
3 think you could potentially be one of those jurors, so we
4 wanted to talk to you about that. Fair enough?

5 A. Fair enough.

6 Q. All right. Now, tell me, Ms. Rhone, you have a lot
7 in your questionnaire. You've -- I'm going to say this as
8 delicately as possible. You have some very strong answers for
9 the State with regards to your belief of the death penalty.

10 A. Yes.

11 Q. Then you have some answers that I think the Defense
12 likes in your questionnaire about some of the things that
13 happened in your family. Tell me your personal beliefs on the
14 death penalty.

15 A. I believe if the crime and the character of the
16 person meet certain criteria in my mind, that I wouldn't have a
17 problem sentencing him to death.

18 Q. And what is the crime, when you're thinking of --

19 A. Well, quite honestly, one of my main ones, if a
20 child is harmed or someone innocent is harmed. And if it's not
21 -- I don't want to say if it's, oh, a drug addled brain, I
22 don't want to say that that makes it okay, but it maybe makes
23 it a little more understandable. Like maybe the person under
24 normal circumstances wouldn't have done such a thing.

25 Q. Okay. And that's obviously one of the answers that

1 concerned us over on this table is you talked about if somebody
2 commits a cold-blooded intentional capital murder, but was
3 voluntarily intoxicated, whether it be drugs or alcohol, you
4 would take that into consideration in assessing his punishment.

5 A. It doesn't mean that I would say, oh, well, they
6 were drunk and they're not responsible because I think even
7 under the influence of chemicals that don't belong in the body,
8 that you -- you're still -- your brain is functioning enough
9 that you know that it's wrong, you know, to murder somebody or
10 to rob a bank or, you know, to kidnap somebody or that kind of
11 thing. You know it's wrong, even if you're drunk.

12 Q. Talk to me about -- you said murder of a child would
13 be the worst for you?

14 A. Yes.

15 Q. What happens to that person -- I always like to give
16 an example -- you know, just decided one day I'm going to party
17 hard and do lines of cocaine, get drunk, out of their mind,
18 just completely annihilated and goes -- walks down the street
19 and sees a child, runs up and shoots him in the head.

20 A. I would probably lean toward capital punishment for
21 that because the child -- first of all, it's a child, and it
22 hasn't harmed anyone and is still innocent and I just -- I just
23 don't believe that you can get impaired to that point. Maybe
24 somebody can, but I just don't believe it.

25 Q. And the reason I'm asking that question is because

1 your answers on your questionnaire talks about you would
2 consider the degree of impairment in deciding someone's
3 punishment with regards --

4 A. Right.

5 Q. -- to a capital murder.

6 A. Right.

7 Q. And so I just kind of wanted to get your gut
8 feelings on does that degree of impairment outweigh the actual
9 brutal, horrible nature of a potential crime?

10 A. I don't think so because in my opinion if you're so
11 impaired that you're incapable of realizing what you're doing
12 is wrong, you're probably unconscious. I mean, that's just how
13 I feel about it.

14 Q. Okay.

15 A. You know, if you're that impaired, you're not awake,
16 you know.

17 Q. We also asked you what would be important in
18 deciding whether a person received a death or life sentence,
19 and you said the reason for the murder, the brutality, whether
20 drugs, alcohol, or passion were involved.

21 A. Right.

22 Q. Explain that answer a little bit.

23 A. Well, I think if, you know, a spouse comes home and
24 catches their spouse, you know, in a compromising position with
25 someone else and they just lose their temper and something

1 happens in that instance, is a different thing for me than if
2 someone were stalking their spouse or just angry at their
3 spouse and killed them --

4 Q. Okay.

5 A. -- for no reason. You know, other than just that
6 spouse wasn't doing what they wanted them to do. I think
7 that's different than if someone -- or if someone sees someone
8 harming their child or doing something destructive like that, I
9 can understand how they could lose their temper or lose their
10 train of thought and do something like that, or a parent
11 killing someone who harmed their child, I can understand that,
12 you know, I can. I don't think that it's the right thing to
13 do.

14 Q. Oh, I'm with you on that one.

15 A. I can understand.

16 Q. I have two young ones, so --

17 A. Yeah. I mean, I can understand why someone would do
18 that.

19 Q. Okay. You said if the -- it would be different if
20 the spouse is just mad at the other one or --

21 A. Right.

22 Q. Okay.

23 A. Right. If it's just angry, they've had an argument
24 and, you know, one spouse decides to kill the other, that's not
25 excusable to me. But if it were in the heat of passion,

1 something horrible, you know, like the spouse was threatening
2 to harm them or had harmed them or, you know, they caught them
3 with another person, I could understand why emotion would
4 overrule that.

5 Q. Okay. You've had some nephews, some nieces, some
6 friends --

7 A. Oh, yes. I have a very colorful family.

8 Q. Let me do it this way. Instead of going one by one,
9 how about -- were they all treated fairly?

10 A. Mostly, yeah.

11 Q. Okay.

12 A. There have been a few, I think, got away with things
13 they shouldn't have gotten away with, but for the most part,
14 yeah.

15 Q. Any -- any ill will towards this table or any type
16 of law enforcement?

17 A. Oh, not at all.

18 Q. In how they were dealt with?

19 A. Not at all.

20 Q. Okay. And then any interest in a criminal case, you
21 said, yes, conviction of the man who molested children in your
22 family.

23 A. Yes.

24 Q. And the man who murdered your uncle.

25 A. Yes.

1 Q. Tell me about that.

2 A. My uncle was staying with a couple and he was
3 sleeping on the couch and the man -- the man that lived at the
4 house had been drinking and got it into his head that my uncle
5 had been having an affair with his wife, and while my uncle was
6 sleeping on the couch, the man just walked in and shot him in
7 the head with a deer rifle. And the guy only got like eight
8 years. So, yeah, yeah, because they said it was a crime of
9 passion so he only got eight years.

10 Q. You obviously didn't think that was a crime of
11 passion?

12 A. No, I didn't.

13 Q. I'm assuming you'd want a heck of a lot more than
14 eight years?

15 A. Yes, I would have. The guy should have gotten life,
16 I think. You know, he just killed my uncle in cold blood, not
17 that my uncle was the nicest guy in the world or even sober
18 most of the time, but I think just to do to someone when
19 they're sleeping and not even -- they don't even know what's
20 coming. You know, they're not given a chance to defend
21 themselves is wrong.

22 Q. And that -- that wouldn't be death penalty case in
23 the state of Texas.

24 A. No, no.

25 Q. That didn't rise to one of those elements we're

1 going to talk about in a second.

2 A. No, I would -- no, I wouldn't think so, because he
3 just -- I mean, he didn't like torture him or -- kill a child
4 or kill other people or just go on a rampage. He -- he
5 targeted my uncle, and he was drunk, you know.

6 Q. Okay. And then what about the man who molested
7 children in your family, what --

8 A. I think there's nothing bad enough for him.

9 Q. Okay.

10 A. You know, I really don't. I don't think there's
11 anything that could happen to him that would be bad enough.

12 Q. And what -- what -- is that -- that case is still
13 pending?

14 A. Yes.

15 Q. Is it still pending to this day?

16 A. Yes.

17 Q. Is it in this courthouse?

18 A. I think it's Collin County.

19 Q. Okay.

20 A. Collin County. It was my niece's ex-husband. We
21 found out after the fact that he had been using sex as
22 punishment for the girls. If they didn't do what they wanted
23 or got grounded or got in trouble, that's his way of punishing
24 them.

25 Q. How old were the girls?

1 A. From age five to eight at the time it happened.

2 Q. So that's where your strong beliefs are on the
3 children?

4 A. Yes. Yes.

5 Q. Fair enough.

6 MR. HEALY: Judge, I think we need to take a
7 brief recess.

8 THE COURT: Okay.

9 MR. HEALY: If that's okay.

10 THE COURT: All right.

11 (Venireperson excused from courtroom.)

12 THE COURT: What do you think?

13 (Discussion off the record.)

14 THE COURT: Okay. So what are we doing with
15 Lisa Rhone, excusing her?

16 MR. JOHNSON: Yes, sir, Judge.

17 (Discussion off the record.)

18 THE COURT: All right. I'd like for the record
19 to reflect that Prospective Juror Number 33A, Lisa Rhone, has
20 been excused by agreement of parties.

21 Is that correct, Mr. Healy?

22 MR. HEALY: Yes, Your Honor.

23 THE COURT: Mr. Johnson?

24 MR. JOHNSON: Yes, sir.

25 THE COURT: Okay. We're done for the morning.

1 Bring Ms. Rhone back in.

2 (Agreement to excuse venireperson.)

3 THE BAILIFF: Come in, ma'am.

4 (Venireperson brought forward.)

5 THE COURT: Okay. Ms. Rhone, thank you so much
6 for being here. I'm going to excuse you --

7 VENIREPERSON: Okay.

8 THE COURT: -- from any further jury service in
9 this case, but I wanted to thank you personally for your jury
10 service and for the effort you made to be with us this morning.

11 VENIREPERSON: Thank you.

12 THE COURT: Thank you very much. You're free to
13 go.

14 (Venireperson excused from courtroom.)

15 (Lunch recess.)

16 THE COURT: Come on in, ladies and gentlemen.
17 Just have a seat right here in the jury box and let me talk to
18 you for just a few minutes and then we'll get this thing
19 underway. We're running a little bit behind this afternoon.

20 Okay. Thank you. Be seated, ladies and
21 gentlemen.

22 And good afternoon, ladies and gentlemen of the
23 jury panel. How are you all this afternoon?

24 VENIREPERSON: Fine.

25 THE COURT: Good. I'm Judge Quay Parker. I'm a

1 Senior Judge from McKinney, just north of here and -- excuse
2 me. Several months ago, Judge Andy Chatham, who is the
3 presiding Judge over this case, asked if I'd assist him in the
4 trial of this capital murder case by presiding over the jury
5 selection process, or more to the point, the individual voir
6 dire examination. And that's what I'm doing here, instead of
7 Judge Chatham, who is across the hall in his courtroom taking
8 care of the everyday matters of the court.

9 Your reason for being here today is because the
10 law requires in a capital murder case where the State is
11 seeking the death penalty, that each prospective juror be
12 interviewed individually. And so you're here this afternoon
13 for your individual interview.

14 Now, then, let me -- so that's why you're here
15 today.

16 Let me take you back in time a little bit to --
17 I believe all of you met in Judge Chatham's courtroom over here
18 across the hall sometime ago for the general session; is that
19 correct? All three of you, you all recall that?

20 VENIREPERSON: Yes.

21 VENIREPERSON: I believe that I was in this
22 courtroom.

23 THE COURT: You were in this courtroom? Okay.
24 One courtroom or another for the general session. Judge
25 Chatham addressed the group at that time, introduced himself,

1 went over some qualifications and exemptions. At some point in
2 the proceedings, he had everybody on the panel stand up, raise
3 their right hand, he administered the oath of a prospective
4 juror to each panel member. Do you all recall that?

5 VENIREPERSONS: Yes.

6 THE COURT: All right. Very good. And did all
7 three of you stand and take the oath at the time that Judge
8 Chatham addressed the panel?

9 VENIREPERSONS: Yes.

10 THE COURT: Okay. And I'll remind you, you're
11 still under your oath. What you've been sworn to do are
12 basically two things: To be responsive to each question that
13 the attorneys ask you. And secondly, to give us truthful and
14 honest answers. We know you'll do that anyway.

15 All right. Now, then, there's no right or wrong
16 answer to any of their questions because they -- what they're
17 going to do, they're going to ask you questions probably first
18 concerning answers or responses that you have given on your
19 questionnaires. I know you haven't seen those questionnaires
20 since you turned them in that day, but we do have copies for
21 each one of you of your individual questionnaire. And so
22 you'll have that available. It will be -- it will be laying on
23 the witness stand here for you when it's your turn to do your
24 individual interview.

25 And so I know you probably don't remember the

1 answers or the responses that you wrote down, so it will be
2 there for you to refresh your memory. And then the attorneys
3 will probably ask you to either expound on or to explain some
4 answer or response that you've written down.

5 Now, we know you didn't know anything about
6 capital murder law when we fill -- when you filled out your
7 questionnaires, and that was the purpose of it, simply to kind
8 of get a gut check response. The attorneys may use that
9 terminology, but anyway, it's not a legal term by the way. You
10 probably didn't know that, did you? A gut check response.
11 Anyway, to -- just kind of get an idea of how you thought about
12 the capital murder law without knowing anything about it. We
13 know you still probably don't know anything about it, and so a
14 good part of our time with you this -- each one of you this
15 afternoon is going to be spent with the attorneys explaining
16 certain aspects of the law as it applies to capital murder
17 cases and then to ask you questions about it now that you
18 understand more about it, whether or not your ideas have
19 changed, whether or not now that you know the law, you can
20 follow the law, and whether or not you could even participate
21 in a trial of this magnitude. That's what the questions are
22 really going to be about.

23 So I'm telling you there's not any right or
24 wrong answers to any of these questions. This is certainly not
25 a quiz or an exam that if you answer all the questions right,

1 you get to be on the jury; if you don't, then you're not on the
2 jury. It doesn't have anything to do with it at all. What
3 we're trying to find out and what we're going to prevent is if
4 you either don't agree with the law and can't follow the law or
5 if you just simply can't participate in a trial of this
6 magnitude, we don't want to put you on the jury and have you
7 over here and then you realize that after you're already on the
8 jury. So that's kind of what this whole individual interview
9 is all about, okay?

10 Now, then, have all three of you had time to
11 read your little jury -- juror guide or introductory pamphlet
12 that my bailiff has given to each one of you?

13 VENIREPERSON: Yes.

14 THE COURT: Okay. I didn't know if you had been
15 here long enough to be able to read that or not, but if you --
16 if you haven't completed it, it just simply gives you kind of
17 some idea about what's going to happen here this afternoon with
18 each one of you and to kind of preview you on some of the
19 special issues that the jury will be asked to answer during the
20 course of the punishment phase of the trial, if we get to the
21 punishment phase, if the punishment -- if we reach the
22 punishment phase.

23 So anyway, those are some of the things that --
24 and just kind of acquaint you with perhaps some of the
25 terminology, as well, that you will hear the attorneys

1 referring to as they go over some of the questions with you,
2 okay?

3 I believe that's all I'm going to talk with you
4 about. Now I'm going to introduce you to the attorneys that
5 are going to participate in this voir dire examination and in
6 this trial, and then we'll bring you in one at a time and visit
7 with you individually.

8 Seated at the counsel table directly in front of
9 you is just Mr. Josh Healy right now -- Josh Healy.

10 MR. HEALY: Good afternoon, ladies and
11 gentlemen.

12 THE COURT: He's also assisted by Jennifer
13 Bennett, and she was in here a minute ago. I'm sure Jennifer
14 just stepped out. She'll be back in a moment. And then
15 there's two other members of the prosecution team, Mr. Heath
16 Harris and Mr. Andy Beach. And if they're here -- I don't see
17 them in the courtroom right now -- but if they're here, they'll
18 either be seated at the back of the courtroom and once in a
19 while, they'll come down and have a seat right behind the
20 prosecutors here at the -- at the counsel table here for the
21 State.

22 And then over in front of the bench here, in
23 front of me is the Defense team, Mr. Paul Johnson --

24 MR. JOHNSON: Good afternoon.

25 THE COURT: -- who is lead counsel for the

1 Defense.

2 Seated next to him, Mr. Brady Wyatt.

3 MR. WYATT: Good afternoon.

4 THE COURT: And then the gentleman seated behind
5 Mr. Johnson and Mr. Wyatt, Mr. Kobby Warren.

6 MR. WARREN: Good afternoon.

7 THE COURT: And these three attorneys make up
8 the Defense team, and they represent their client, the
9 Defendant in this case, Mr. Gary Green.

10 THE DEFENDANT: Good afternoon.

11 THE COURT: He's seated on the end down here.

12 All right, Mr. Healy.

13 MR. HEALY: Judge, we're going to start with --

14 THE COURT: Who would you like to --

15 MR. HEALY: Ms. Burgess.

16 THE COURT: Ms. Burgess. Okay. All right.

17 And if -- let's see, Mr. Grant and Ms. Ramirez,
18 if the two of you would step out with my bailiff. And then,
19 Ms. Burgess, if you'll take your place on the witness stand.

20 (Venirepersons excused to hallway.)

21 THE COURT: Looks like Darline has already found
22 your -- your questionnaire, so just go ahead and have a seat
23 there.

24 And, Darline, I'd like for the record to reflect
25 this is Prospective Juror Number 31C, Janice Burgess.

1 Okay. Mr. Healy.

2 MR. HEALY: Thank you, Judge. May it please the
3 Court.

4 THE COURT: Yes, sir.

5 MR. HEALY: Counsel.

6 JANICE BURGESS,
7 was called as a venireperson by the parties, and after having
8 been previously duly sworn, testified as follows:

9 STATE VOIR DIRE EXAMINATION

10 BY MR. HEALY:

11 Q. Is it Ms. Burgess?

12 A. Burgess.

13 Q. Burgess. How are you doing this afternoon?

14 A. Okay.

15 Q. Obviously, you know why you were brought down here.
16 We are here to talk with you for up to the next 40, 45 minutes,
17 and then the Defense will talk to you for that time determining
18 if you will be a good fit for this jury. We're almost done
19 with jury selection. We're looking for a few more people, and
20 both sides thought you may be the type of person that could be
21 a juror on this case. How does that make you feel?

22 A. Kind of floored.

23 Q. Why?

24 A. Honestly. I don't know. I just never thought
25 anybody would think that -- I mean, I've actually been picked,

1 but it was an individual that picked me that was representing
2 herself for a jury about a year or so ago.

3 Q. Where was that?

4 A. In Irving. We came out here, and then we all had to
5 go back to Irving.

6 Q. Was it a traffic ticket or something?

7 A. A lady that -- her car had been hit by another
8 woman.

9 Q. Okay.

10 A. And she didn't like the repair job. She was suing
11 to have it done again.

12 Q. Did she win?

13 A. No.

14 Q. Tell me why you don't think you would be picked for
15 this type of case.

16 A. I think I'm kind of weird, actually -- you know, for
17 normal, whatever. That sounds strange.

18 Q. I'm about as strange a man as they can be. So tell
19 me why you're weird in your opinion.

20 A. I just have radical views on a lot of things. I
21 mean, to me, I'm -- you know -- but I would -- I mean, I'm kind
22 of involved in Native American stuff. My mother was half
23 Indian, so, you know, that sort of stuff. I'm not real
24 trusting of authority type figures. I mean, I -- you know, I
25 know some really great police people, and then I've had some

1 friends that had experiences that were pretty bad, so --

2 Q. Tell me about that, the bad experiences.

3 A. One of my Sioux friends had his house broken into
4 and had his Native American religious items taken. And they
5 called it Satanic stuff. And I'm like, I don't know. They had
6 to apologize eventually for doing that, but, you know, just
7 things like that.

8 Q. Okay. Let me ask you -- part of my ignorance, but
9 the type of religious beliefs you have?

10 A. That's another one.

11 Q. I can't even pronounce. I apologize. I'm very
12 different religiously from most, so I -- but I've never -- I
13 don't -- is it Asatru?

14 A. Asatru.

15 Q. Asatru. Is it A-s-a-t-r-u?

16 A. Uh-huh.

17 Q. What -- what is that based on?

18 A. It's the -- like pre-Christian Viking era type, like
19 Norse, Scandinavian.

20 Q. Okay. Do they have any core beliefs? I mean, what
21 are their main core beliefs?

22 A. It's very individual. There's not like really --
23 like a one set piece of literature, like the Bible would be for
24 Christians or whatever. It's very individual oriented and
25 pretty much that you're responsible for what you do. And if

1 there are consequences, you've got to pay them, you know.

2 Q. So it sounds like they are pro death penalty then?

3 A. It would depend probably on the person. There are a
4 lot of military -- ex-military people that are Asatru.

5 Q. Okay.

6 A. Police people -- people like that that are actually
7 involved in law enforcement.

8 Q. And you said other than attendance, what other
9 activities are you involved in at your church. Again, pardon
10 my ignorance, but Gythia of a Kindred?

11 A. Kindred is like a -- a -- well, they're kind of
12 considered like a family grouping of probably close friends, or
13 it could be family members that follow the same religious path
14 that you do.

15 Q. And what do you -- do y'all do something?

16 A. Yeah, there are holidays, yules -- it was a big one.
17 That was one of the really big ones. It's a solar festival we
18 associate with Asatra. It's one of the deities.

19 Q. Do they celebrate Christmas?

20 A. It's -- well, the Christmas tree, yule log, and all
21 that stuff came from the word "yule." It was the Nor
22 celebration that happened at that time, so, yeah.

23 Q. Okay.

24 A. Yep.

25 Q. There's nothing wrong with that. I'm learning

1 something new every day.

2 A. And it has nothing to do with -- you know, a lot of
3 stuff people see it and go, oh, my God, you're like gay
4 bashing, you know, racist or whatever and it's nothing -- you
5 know, I mean, some of the Oden people that are in prisons and
6 stuff do that kind of stuff, but the general Asatra community,
7 that is definitely not what it is.

8 Q. It sounds like it's a personal responsibility type
9 religion.

10 A. It's very associated with that, and it's
11 reciprocating things. There are a lot of, you know, things
12 about guests in your home and how you treat them. And it's
13 very much of keeping things even and, you know, you putting out
14 an effort to maintain your friendships and your relationships,
15 and like I said, very much taking, you know, responsibility for
16 your actions and what you do.

17 Q. That's why I was -- it shocks me that they don't
18 have a certain belief on the death penalty, or I guess --

19 A. So that's probably going to be an individual, you
20 know, thing.

21 Q. Okay.

22 A. Because it's not -- it's not organized as in they're
23 so set, you know -- and there are different types, just like
24 there are different types of Christianity things and different
25 sects. Asatru is different, too. Some of them are folkish and

1 they're, you know, way over on one side of things and then some
2 are, you know, not as much that way at all and they're more
3 liberal oriented. I'm fairly eclectic myself, but, yeah, some
4 of them are like, no, we just have to do this one thing and
5 that's it.

6 Q. What do you think honestly of the death penalty?

7 A. I think sometimes, you know, that it would be a good
8 thing, depending on the circumstances.

9 Q. And when do you think it would be a good thing?

10 A. It would depend, to me, on what the person did and
11 probably, you know, if they had a history of doing that type
12 thing or not.

13 Q. And you keep saying what they did. I want to --

14 A. Oh, somebody that -- I guess like, you know, some
15 serial killer that was out, you know, killing women or, you
16 know, somebody that killed little kids, you know, that type of
17 thing. Maybe if it was an accident of some kind, they had
18 never done it ever, you know, anything like that, you know. It
19 would depend on the circumstances to me and what the -- you
20 know, the issue was and what had happened and what that person
21 was like, you know.

22 Q. Okay.

23 MR. HEALY: Give me one second, Ms. Burgess.

24 (Discussion off the record.)

25 MR. HEALY: Judge, can we --

1 Ms. Burgess, we're going to take a brief recess
2 real quick.

3 THE COURT: All right. Ms. Burgess, if you'd
4 just step out with my bailiff for just a moment, let me confer
5 with the attorneys, and I'll bring you right back.

6 (Venireperson excused to hallway.)

7 THE COURT: Okay. Do we have an agreement on
8 Ms. Grant?

9 MR. WYATT: Ms. Burgess.

10 MS. BENNETT: Ms. Burgers.

11 THE COURT: I mean, Ms. Burgers. What am I
12 saying?

13 Ms. Burgess. Let the record reflect that
14 Prospective Juror Number 31C, Janice Burgess, has been excused
15 by agreement of parties.

16 Is that correct, Mr. Healy?

17 MR. HEALY: Yes, Your Honor.

18 THE COURT: Mr. Johnson?

19 MR. JOHNSON: Yes, sir.

20 (Agreement to excuse venireperson.)

21 THE COURT: Bring Ms. Burgess back.

22 (Venireperson brought forward.)

23 THE COURT: Ms. Burgess, I just wanted to bring
24 you back in and thank you very much for being here. I'm going
25 to excuse you from any further responsibility.

1 VENIREPERSON: Okay.

2 THE COURT: But we do thank you for being here
3 -- your time and effort to be with us. Thank you, ma'am.

4 VENIREPERSON: Thanks.

5 (Venireperson excused from courtroom.)

6 (Recess.)

7 (Venireperson brought forward.)

8 THE COURT: Come on in, Mr. Grant. Have a seat
9 right there. I'd like for the record to reflect this is
10 Prospective Juror Number 57B, David Grant, and --

11 All right. Ms. Bennett, are you ready to talk
12 to Mr. Grant?

13 MS. BENNETT: I am, yes.

14 THE COURT: Yes, ma'am, go ahead.

15 DAVID GRANT,
16 was called as a venireperson by the parties, and after having
17 been previously duly sworn, testified as follows:

18 STATE VOIR DIRE EXAMINATION

19 BY MS. BENNETT:

20 Q. Good afternoon, Mr. Grant. How are you doing today?

21 A. Great. Thanks.

22 Q. My name is Jennifer Bennett, and I'm going to be
23 going through this process with you. First of all, we'd like
24 to thank you for coming down this afternoon. I was looking to
25 see what time it was, to see how long you had been waiting.

1 Not too long, but we do appreciate it.

2 I want to let you know that what we're going to
3 do is we're first going to spend some time talking about your
4 feelings about the death penalty. And there's no right or
5 wrong answers. No matter what you say, you're not going to
6 offend our table or their table. We just kind of want to see
7 how you feel about this case -- or not this case, but the death
8 penalty. And we're basically just trying to find the twelfth
9 juror, the person that's going to be the best fit for this
10 jury, okay?

11 So there's no quiz, no right or wrong answers,
12 nothing like that, all right? So first of all, before we go
13 into that, I want to talk to you about your job. The Judge --
14 did the Judge tell you the date of the case when you were in
15 here earlier?

16 A. Not today. They just said it would be the end of
17 October.

18 Q. Right. We're scheduled to start October 25th, and
19 it will last no longer than two weeks, maybe less, but no more.
20 We're asking people to schedule out two weeks, just in case. I
21 know you have put in your questionnaire in a couple of places
22 concerns about work. Obviously, we need jurors who are
23 responsible citizens who have jobs, and anybody, you know,
24 leaving their job for a couple of weeks is probably not going
25 to be easy. The question is, is it something you are able to

1 do if called to?

2 A. Yes.

3 Q. Okay. And I know -- I notice -- we'll get to that
4 here in a minute, but you've been on -- is it four separate
5 juries, or was it one case?

6 A. No, four separate over the years.

7 Q. And each one of them plea bargained in the middle of
8 trial?

9 A. Right.

10 Q. I can guarantee, that's not going to happen in this
11 case.

12 A. I can tell.

13 Q. So you've been through this process before, so you
14 kind of understand how it works. But can you tell us why you
15 believe in the death penalty?

16 A. I just -- I don't know. I just feel strongly that
17 if someone takes someone life and there's -- the reason, that
18 person needs to give up his life and that's what should happen.

19 Q. And you did say that you don't believe in an
20 eye-for-an-eye?

21 A. Right.

22 Q. And you don't believe that the death penalty is a
23 deterrent to other criminals?

24 A. No. It takes so long for those things to happen and
25 appeals process, I think it just -- I don't think it's a

1 deterrent.

2 Q. So for you is it more of a punishment type -- I
3 mean, what is it for you that you're in favor of it under
4 certain circumstances?

5 A. Well, I just think if someone -- like I said, if
6 someone takes someone else's life and there's not a mitigating
7 reason, I'm just trying to figure out why that person should
8 continue to live. I mean, I don't believe in an
9 eye-for-an-eye, but I also believe that there's got to be
10 justice meted out in that circumstance.

11 Q. I tell you, some parts of your questionnaire, you
12 seem like you're sounding now, you know, pretty law and order
13 oriented. But then in other parts of your questionnaire, like
14 where we had you put the order of -- you know, what you believe
15 was important as far as objectives of punishments and asked you
16 to rate rehabilitation, deterrence, and punishment, you rated
17 rehabilitation first and then punishment second and then deter
18 last, so --

19 A. Well, rehabilitation, I -- was I supposed to answer
20 based on the death penalty?

21 Q. You mean based on capital murder?

22 A. I'm sorry, based on capital murder?

23 Q. Well, we don't do that because we're just trying to
24 get gut feelings, but would you --

25 A. I always believe in rehabilitation, unless

1 there's -- unless it's something along the line of capital
2 murder where the person is found guilty, then I don't think
3 rehabilitation is in the cards.

4 Q. Right. And what we talk about later is, you know,
5 the best case scenario for someone convicted of capital murder
6 is going to be life in prison with no possibility of parole.
7 So I always say when people talk about rehabilitation a lot,
8 you know, I'm not sure what you're thinking, but the best
9 they're ever going to get for capital murder is life in prison
10 with no parole.

11 A. Right. I understand.

12 Q. Do you feel that life in prison without parole is a
13 pretty harsh punishment?

14 A. I do.

15 Q. You mentioned when you were saying unless --

16 MS. BENNETT: Hold on one second.

17 (Discussion between counsel off the record.)

18 Q. (BY MS. BENNETT) You mentioned unless there were
19 special mitigating circumstances. What -- what were you
20 thinking about when you said that?

21 A. It would be rare. I mean, for me, it would be --
22 they'd have to prove beyond a shadow -- a reasonable doubt that
23 the person was not in his full faculties, I guess you could
24 say. I don't know what the term is. But they weren't mentally
25 competent.

1 Q. Okay.

2 A. That would probably be about the only thing I could
3 think of.

4 Q. Well, I thought it was interesting, though, because
5 on page 8 of your questionnaire where it said -- and you can
6 turn to it if you like or I'll read it to you --

7 A. Sure.

8 Q. -- in about the middle of page 8, it says, some
9 people feel that genetics, circumstances of birth, upbringing,
10 and environment should be considered in determining punishment.
11 And you said it depends on the crime. Murder, incest, rape,
12 child abuse cannot use the above as excuses. But it sounded
13 like then in certain situations you're open to at least
14 considering things like that.

15 A. You think that's confusing? I thought it was pretty
16 clear. I mean, I think what I'm saying there is, I don't think
17 you can use the excuse of your background, your environment
18 when it comes to something like murder. And now, again, some
19 of these other scenarios, depending on what -- what it is -- I
20 mean, I'd have to hear it, obviously -- but then there might be
21 some way to look at rehabilitation for those types of crimes,
22 but, I guess I should have answered it specifically for capital
23 murder.

24 Q. Now, you are Mormon, correct?

25 A. Yes.

1 Q. And pretty -- it looks like pretty active in your
2 church?

3 A. Uh-huh.

4 Q. As far as your church's stance on the -- on capital
5 punishment, you said they don't officially, but overall
6 teachings lean towards capital punishment. So there's nothing
7 about your religion or your religious beliefs that would keep
8 you from considering the death penalty?

9 A. No. If anything, it would more than point to that
10 versus the other.

11 Q. And you have a lot of children?

12 A. We do.

13 Q. With a wide range of ages, from 23 to 35?

14 A. Uh-huh.

15 Q. All right. As far as your friend that had a fraud
16 case in the 90's, anything about that that would affect
17 anything?

18 A. No.

19 Q. Okay. Oh, yeah, and your daughter is an attorney,
20 correct?

21 A. Uh-huh.

22 Q. Where does she --

23 A. She's in a small private practice in Frisco. It's
24 just a -- in fact, I forget the name of the firm she's
25 associated with, but it's more family law and wills and things

1 like that.

2 Q. Do you -- and you said you had a lot of friends that
3 were attorneys, also. Do you know anyone who practices
4 criminal law?

5 A. I don't. One thing I didn't put on there, which I
6 didn't think about at the time because I'm trying to remember
7 the questions. I think it asked if I knew anybody on the
8 Dallas police force. I don't know if it said that or not. One
9 person I do know, but he retired at the first of the year, was
10 Assistant Chief of Police Tom Ward, and we've been very good
11 friends for 10 to 12 years. We've discussed a lot of things
12 over the years versus different things that have gone on here,
13 so I -- I told him I was going to be interviewed for this. He
14 said, well, bring it up because you don't want to get halfway
15 into it and then find out that you knew me and it might make a
16 difference, so I'm bringing it up.

17 Q. Okay. Yeah, always better to say too much than not
18 enough, right?

19 A. Right.

20 Q. Well, do you know anything about this case?

21 A. I vaguely remember it from a year or so ago, but I
22 did not go and look it up online, as they asked us not to do.

23 Q. What do you remember reading about it?

24 A. Just a woman was killed and then a child was killed,
25 and I can't remember whose child it was. So I -- that's really

1 basically all.

2 Q. And did you form any opinions?

3 A. Well, when you hear something like that, you always
4 think how awful and -- so, yeah, I mean --

5 Q. I think -- yeah, anyone hearing that type of fact
6 scenario would think how terrible, but as far as reaching any
7 conclusions about whether or not, you know, this Defendant, as
8 he sits here today, would be presumed innocent or not, is there
9 anything about reading that article that you feel like would
10 affect you if you were to be -- to sit on this jury?

11 A. Well, after reading the article, just remembering
12 what I -- it's hard to remember a year ago what exactly that
13 article really said. But I mean, you form an opinion. I mean,
14 you can't help but form an opinion, especially when a child is
15 involved. So it's like -- it will be tough for me to be overly
16 objective.

17 Q. And when -- and when you say you formed an opinion
18 because we're talking about -- we might be talking about -- I
19 mean, either you formed an opinion about this particular
20 Defendant or -- which is not okay -- or you formed an opinion
21 that if a child is killed, that's a terrible thing, which is
22 okay. Does that kind of make sense, a distinction?

23 A. Yeah, but I think anytime a woman is killed in a
24 brutal fashion like that and then a child is killed along or
25 about the same time, that's -- that was just very horrific.

1 I'll put it that way.

2 Q. So you remember the details about --

3 A. Not really. I mean, I just remember what happened.
4 That's all.

5 MS. BENNETT: Give me just a second.

6 Judge, can we have a brief recess?

7 THE COURT: All right. If you'll just step out,
8 Mr. Grant, for just a moment with my bailiff, I'll bring you
9 back in in just a minute.

10 (Venireperson excused to hallway.)

11 MR. JOHNSON: Your Honor, we're going to
12 challenge this juror for cause under 35.16, subsection 10.

13 (Venireperson challenged by the Defense.)

14 COURT REPORTER: 35.16?

15 MR. JOHNSON: Yes.

16 THE COURT: Any objection from the State?

17 MS. BENNETT: No.

18 THE COURT: Granted. Challenge granted.

19 Huh?

20 (Challenge granted.)

21 MR. HEALY: In good faith.

22 THE COURT: In good faith. Yeah.

23 MR. HEALY: He said he's formed an opinion.

24 THE COURT: Yeah.

25 (Discussion off the record.)

1 (Venireperson brought forward.)

2 THE COURT: Okay. Mr. Grant, thank you so much
3 for being here. I am going to excuse you from any further
4 involvement in this case and responsibility, but thank you so
5 much for being here. We appreciate your time and effort.

6 VENIREPERSON: Okay.

7 THE COURT: And your jury service.

8 MR. JOHNSON: Thank you, sir.

9 MS. BENNETT: Thank you.

10 (Venireperson excused from courtroom.)

11 (Recess.)

12 (Venireperson brought into courtroom.)

13 THE COURT: Come in, Ms. Ramirez, if you would,
14 please, ma'am, just up here to the -- thank you, ma'am. Just
15 go ahead and have a seat there, if you would, please.

16 Be seated, please, ladies and gentlemen.

17 Let the record reflect this is Prospective Juror
18 Number 22A, Irma Ramirez.

19 And Mr. Healy.

20 MR. HEALY: Thank you, Judge. Please the Court.

21 THE COURT: Mr. Healy.

22 MR. HEALY: Counsel.

23 IRMA RAMIREZ,
24 was called as a venireperson by the parties, and after having
25 been previously duly sworn, testified as follows:

STATE VOIR DIRE EXAMINATION

BY MR. HEALY:

Q. Good morning, Ms. Ramirez. How are you doing this afternoon?

A. Fine. Thank you.

Q. I appreciate you coming down here. I know you're busy based on your questionnaire.

A. Yes, sir.

Q. How is work going?

A. Busy.

Q. Busy?

A. Extremely busy, yes.

Q. What exactly do you do for Bank of America?

A. I do quality assurance of reviewing renewal insurance policies for the bank. It's collateral that they've taken as collateral on their loans for commercial and small business banking loans, and I just make sure that the insurance team that we have that obtain the renewals are in accordance with the regulations of the bank, what we need in order to be sure that the bank is not at risk.

Q. And you've been doing that at this point 22 years?

A. Well, no, I've been with the bank 22 years, but I've been doing this maybe -- almost seven years, this particular position.

Q. Okay. Do you like it?

1 A. Yes, I do.

2 Q. Okay.

3 A. Very busy though.

4 Q. And that's what concerns me a little bit. And I say
5 concerns me, nothing you did wrong. I just want to make sure
6 -- I don't know if the Judge covered the exact trial dates for
7 this. We're starting October 25th --

8 A. Uh-huh.

9 Q. -- working through that week and then probably the
10 middle of the following week and then we'll be done.

11 A. Uh-huh.

12 Q. Obviously, we can't excuse you just because of work.
13 However, if it's something that's so, so, so horrible that
14 would basically ruin your ability to concentrate on the
15 evidence at hand, we take that into consideration.

16 A. It definitely will because it is a very stressful
17 job at this point in time with not just myself, but with the
18 unit that I'm in. We are very backlogged on our work as it is
19 right now, and it's all about the numbers and production, so I
20 have to be honest and it is stressful. I have lost sleep over
21 it, you know, and -- I could not honestly say that I would be
22 100 percent in my mind concentrating on what, you know, this
23 would require, because I give 100 percent plus to my job
24 position. You know, to me, it's that important.

25 Q. We think you would be a good juror here.

1 A. Honestly. Well, I mean, I don't know what to say.
2 You want me to be honest.

3 Q. Yes, that's all I ask you.

4 A. I'm being honest. I'm not the only one in our -- in
5 that department -- in my team that is under a lot of stress. I
6 mean, even my manager, we're all under stress. Because we all
7 have to answer to somebody up higher.

8 Q. Well, I guess I can only ask you the same question
9 I've asked every other juror, Ms. Ramirez. Do you think if you
10 were selected as a juror on this case, your ability to
11 concentrate on the evidence would be hampered by your job?

12 A. Well, knowing that my position -- that other
13 coworkers would have to incur my -- my workload, I would
14 honestly have to be -- I would have to say yes.

15 Q. All right. Ms. Ramirez, I appreciate your honesty.
16 We would have loved to have you.

17 THE COURT: Do we have an agreement?

18 MR. HEALY: I think she legally disqualified
19 herself.

20 THE COURT: Okay.

21 MR. HEALY: Do you agree, Judge?

22 THE COURT: Yes.

23 MR. HEALY: Mr. Johnson?

24 THE COURT: Okay.

25 VENIREPERSON: I'm sorry.

1 MR. HEALY: That's okay.

2 VENIREPERSON: I'm being honest.

3 THE COURT: No, we needed that from you.

4 VENIREPERSON: Okay.

5 THE COURT: Ms. Ramirez, thank you for being
6 honest and forthright with us.

7 VENIREPERSON: Thank you.

8 THE COURT: Thank you very much, and you are
9 excused.

10 VENIREPERSON: Thank you.

11 (Agreement to excuse venireperson.)

12 THE COURT: All right.

13 VENIREPERSON: I'm off of work today. It's a
14 bank holiday. Thank you.

15 THE BAILIFF: Thank you for being with us,
16 ma'am.

17 (Venireperson excused from courtroom.)

18 THE COURT: Okay. Do you want to put anything
19 on the record other than what we've already got?

20 MR. HEALY: Can we just pull some people out of
21 the hallway and make them fill out questionnaires?

22 THE COURT: Okay. So she was disqualified. I
23 mean, is that the best way?

24 MR. HEALY: We agreed on her, but, yes.

25 THE COURT: Yeah, I mean, you agreed on her, but

1 I think she --

2 MR. JOHNSON: We agree she's disqualified under
3 the law, Your Honor.

4 THE COURT: Let the record reflect that
5 Prospective Juror Number 22A, Irma Ramirez, was disqualified.

6 (Venireperson 22A, Irma Ramirez, disqualified.)

7 (Recess of proceedings.)

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Reporter's Certificate

THE STATE OF TEXAS:

COUNTY OF DALLAS:

I, Darline King LaBar, Deputy Official Court Reporter in and for the 282nd District Court of Dallas County, State of Texas, do hereby certify that the above and foregoing volume constitutes a true, complete and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

WITNESS MY OFFICIAL HAND this the Reporter's Certificate on the 8th day of March, A.D., 2011.

DARLINE KING LABAR
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